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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,717	09/26/2003	Mark Willer	066042-9415-01	1118

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EXAMINER

PAYER, HWEI SIU CHOU

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 09/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/672,717

Applicant(s)

WILLER ET AL.

Examiner

Hwei-Siu C. Payer

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) 6, 13 and 42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7, 8, 10, 11, 17-29, 33-37, 39-41 and 43 is/are rejected.
- 7) ☒ Claim(s) 4, 5, 9, 12, 14-16, 30-32 and 38 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **Detailed Action**

### **Election /Restriction**

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

Species I (Figs.1-13); and

Species II (Figs.14-44).

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1-5, 7, 8, 10, 11, 12, 17-37, 39-41 and 43 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. During a telephone conversation with Mr. Paul M. McGinley on August 23, 2004 a provisional election was made with traverse to prosecute the invention of II, claims 9, 14-16 and 38. Affirmation of this election must be made by applicant in replying to this Office action. Claims 6, 13 and 42 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### **Objection to the Specification**

The disclosure is objected to because of the following informalities:

On page 17, lines 16 and 19, "180" should read --185'-- (note Fig.29).

Appropriate correction is required.

### **Claims Rejection - 35 U.S.C. 102(b)**

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 7, 8, 11, 17, 19, 21, 39-41 and 43 are rejected under 35

U.S.C. 102(b) as being clearly anticipated by Allison (U.S. Patent No. 5,542,183).

Allison discloses a circular saw (see column 2, line 13) comprising a housing (20); a motor (100) supported by the housing (20) and operable to drive a saw blade (22, see column 2, line 24); a cover (132) selectively connectable to the housing (20), the cover (132) at least partially covering the saw blade (22) when the cover (132) is connected to the housing (20); and a quick-locking member (120,124) connected to one of the housing (20) and the cover (132) and engageable with the other of the housing (20) and the cover (132) to selectively lock the cover (132) to the housing (20) without the use of tools as claimed. Further, the quick-locking member (120) is connected to the housing (20) and is engageable with the cover (132). The cover (132) at least partially covers an upper portion of the saw blade (22). The quick-locking member (124) is a latch. The saw further comprises a second locking assembly (122,126) cooperating with the quick-locking member (120,124) to selectively lock the cover (132) to the housing (20). The cover (132) is a first cover, and the saw further comprises a second cover (81) connected to the housing (20) and disposed between the saw blade (22) and the first cover (132) when the first cover (132) is connected to the housing (20), the second cover (81) at least partially covering the saw blade (22) when the first cover (132) is both connected to and disconnected from the housing (20).

3. Claims 22-26, 33, 34, 36 and 37 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Allison (U.S. Patent No. 5,542,183).

Allison discloses a circular saw (see column 2, line 13) comprising a housing (20); a motor (100) supported by the housing (20) and operable to drive a saw blade (22); a first cover (81) connected to the housing (20), the first cover (81) at least partially covering the saw blade (22); a second cover (132) selectively connectable to the housing (20), the second cover (132), when connected to the housing (20), at least partially covering the first cover (81) and at least partially covering the saw blade (22) as claimed. The first cover (81) at least partially covers the saw blade (22) when the second cover (132) is not connected to the housing (20). The first cover (81) is disposed between the saw blade (22) and the second cover (132) when the second cover (132) is connected to the housing (20). The first cover (81) at least partially covers an upper portion of the saw blade (22), and the second cover (132) partially covers the first cover (81) and at least partially covers the upper portion of the saw blade (22) when the second cover (132) is connected to the housing (20). The second cover (132) completely covers the first cover (81) when the second cover (132) is connected to the housing (20). The saw further comprises a quick-locking member (124/126) connected to one (132) of the housing (20) and the second cover (132) and engageable with the other (20) of the housing (20) and the second cover (132) to selectively lock the second cover (132) to the housing (20) without the use of tools. The quick-locking member (124/126) is a latch as claimed.

4. Claims 1-3, 7, 10, 17-29, 34-36, 39-41 and 43 are rejected under 35 U.S.C. 102(b) as being anticipated by Batistelli (U.S. Patent No. 3,662,796).

Batistelli shows a circular saw comprising a housing (12), a motor (see column 2, line 26), a cover (31), a quick-locking member (32). The term "without the use of tools" does not define any structure. Batistelli's quick-locking member (32) can be released with a user's fingernail if so desired.

#### **Indication of Allowable Subject Matter**

Claims 4, 5, 9, 12, 14-16, 30-32 and 38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### **Prior Art Citations**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Reprogle, Laube et al., Stumpf and Wambeke are cited as art of interest.

#### **Point of Contact**

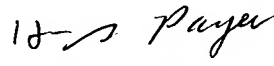
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hwei-Siu C. Payer whose telephone number is 703-308-

1405. The examiner can normally be reached on Monday through Friday, 7:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 703-308-1082. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for official communications and 703-746-3293 for proposed amendments.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

H Payer  
September 3, 2004

  
Hwai-Siu Payer  
Primary Examiner